

U.S. Patent Application No. 10/092,796
Declaration of Donald Wandler
Response filed August 11, 2003

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DECLARATION OF DONALD WANDLER

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I, Donald Wandler, hereby declare as follows:

1. I am Managing Member of River Bend Cranberry, LLC of 9201 Washington Avenue, Racine, Wisconsin. I am authorized to make this Declaration on behalf of River Bend.

2. My position requires that I oversee sales of River Bend cranberries and deal with purchasers of River Bend cranberries. I have spoken with many satisfied customers of the miniature cranberries disclosed in the Smith patent application Serial No. 10/092,796, entitled "Method for Producing Miniature Cranberries and a Substantially Full Yield Thereof."

3. I have extensive knowledge concerning cranberries currently offered on the market.

4. I have read the principal claims of the Smith patent application, particularly including claims 1, 20 and 39, which are as follows:

Claim 1. A method for commercially growing miniature cranberries comprising applying to cranberry plants a plant-growth-regulating composition during the bloom period in an amount such that most of the cranberries have a mature mass of less than about 0.6 grams.

Claim 20. A method of increasing fruit set on cranberry plants comprising commercially applying to the cranberry plants of a plant-growth-regulating composition in an amount and at a time such that the plants have a fruit set of at least about 80%.

Claim 39. A yield of miniature cranberries from a cranberry plant wherein most of the cranberries have mature masses of less than about 0.6 grams.

5. I am making this Declaration to support the non-obviousness of the invention disclosed in the Smith patent application through the great commercial success of the cranberries claimed therein and the cranberries grown according to the methods claimed therein.

6. The miniature cranberries of the Smith application have been very well-received by the cranberry consuming community. The miniature cranberries of the type claimed by the Smith application sold from 2002 to date have been sold at prices per pound four times higher than prices per pound of conventional cranberries.

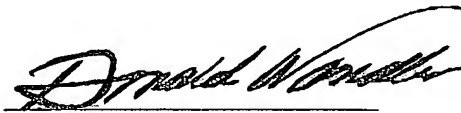
7. I am unaware of any other person, company or association who has developed and/or is selling miniature cranberries as disclosed in the Smith patent application.

8. I am unaware of any other person, company or association who has developed and/or practiced a method of increasing fruit set in cranberry plants to at least about 80%.

9. I am unaware of any other person, company or association who has developed and/or practiced a method of producing cranberries with a majority of the cranberries having a mature mass of less than about 0.6 grams.

10. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true.

Signed this 8th day of August, 2003.

A handwritten signature in dark ink, appearing to read "Donald Wandler", is written over a horizontal line.

Donald Wandler